THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.11539 OF 2006

DATED 11.07.2006

BETWEEN

Ankala Bhogeswara Rao

… Petitioner

and

The Government of A.P., rep. by its Principal Secretary to Government, Revenue Department, A.P.Secretariat, Hyderabad
and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

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ORDER:

The petitioner is resident of Narasimhapuram, hamlet of Santoshpuram Village of Kalidindi Mandal in Krishna District. He is allegedly the owner of land admeasuring Acs.3.55 cents comprised in survey Nos. 294/1, 296, 302 and 326/1 of the said village. In 2004, he filed writ petition being W.P.No.5197 of 2004 seeking a writ of Mandamus directing the District Collector, Krishna District and Mandal Revenue Officer, Kalidingi (MRO), to take necessary action against one Chilukuri Jagadish Babu (fourth respondent herein) and prevent him from carrying on prawn culture in the land admeasuring Acs.1.91 cents in survey Nos.295/4. By order, dated 09.04.2004, this Court disposed of the writ petition following the Division Bench Judgment of this Court in **Madiraju Padma Rambabu v District Forest Officer, Kakinada**[1], directing the District Collector and Mandal Revenue Officer to accept the representation of the petitioner and take necessary action in the matter. This Court also directed to issue notice to the fourth respondent. Now it is alleged that in spite of such direction, respondents 2 and 3 failed to take any action and number of representations made by the petitioner proved futile. Therefore, the present writ petition is filed seeking a writ of Mandamus declaring the inaction of the respondents 2 and 3 as illegal and arbitrary and for consequential direction to the respondents to prevent the fourth respondent from carrying/cultivating the prawn culture.

At the stage of admission itself, the Mandal Revenue Officer,

Kalidindi, has filed counter affidavit. It is stated that the land in survey No.295/4 was originally assigned to one Koduri Umamaheswara Rao, who allegedly alienated the land to fourth respondent and therefore, necessary steps are being taken to resume the land under the provisions of A.P.Assigned Lands (Prohibition of Transfers) Act, 1977. It is further stated that after receiving a copy of the Judgment in W.P.No.5197 of 2004, the MRO issued notice to the fourth respondent, whereupon the fourth respondent submitted statements on 07.02.2005 and 27.05.2006 before the MRO to the effect that they are not cultivating prawn culture in the land and that they are using the land only for raising paddy crop. The other allegations made by the petitioner are denied.

Learned counsel for the petitioner strenuously contends that in May, 2006, the fourth respondent lodged a criminal complaint against the petitioner in P.S., Kalidindi, alleging that the petitioner has trespassed and interfered with the land of the fourth respondent, that in such complaint, the fourth respondent admitted that he is carrying on prawn culture and therefore, the counter affidavit does not reflect true state of facts. He also denies the statement made in the counter affidavit that the notice was issued to the fourth respondent and that the fourth respondent gave a statement denying any prawn culture operations in the land.

The writ petition was filed on 12.06.2006. If the petitioner was aware of the criminal complaint filed by the fourth respondent against him, nothing prevented him to enclose a copy of the complaint. Secondly, as per the counter affidavit, the fourth respondent gave two statements one on 07.02.2005 and another on 27.05.2006. It is quite probable that by the time of giving second statement, the fourth respondent might be carrying on prawn culture and subsequently he stopped. However, it is a matter to be verified by the MRO. If the petitioner still has grievance by any such alleged prawn culture operations in survey No.295/4 of Narasimhapuram, hamlet of Santoshpuram village, the petitioner may approach the third respondent again by producing necessary proof. In such an event, the third respondent keeping in view the Judgment of this Court in **Madiraju Padma Rambabu** (supra) shall take necessary action to prevent any prawn culture or pisi culture operations in the area.

The writ petition, with the above observations, is accordingly disposed of. No costs.

(V.V.S.RAO,J)

11.07.2006
pln

[1] 2002 (1) ALD 728 (DB)